

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 2, 2012

AMENDED IN SENATE MARCH 27, 2012

**SENATE BILL**

**No. 1349**

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**Introduced by Senator Yee**

*(Principal coauthor: Assembly Member Campos)*

February 24, 2012

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An act to add Chapter 2.5 (commencing with Section 99120) to Part 65 of Division 14 of Title 3 of the Education Code, ~~and to add Chapter 2.5 (commencing with Section 980) to Part 3 of Division 2 of the Labor Code,~~ relating to social media privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Yee. ~~The Social Media Privacy Act: Social media privacy: postsecondary education and employment.~~ *education.*

Existing law establishes and sets forth the missions and functions of the public and independent institutions of postsecondary education in the state.

Existing law generally regulates the conduct of employers in the state.

This bill would prohibit a postsecondary educational institution and an employer, whether public or private, from requiring, or formally requesting in writing, a student or an employee, or a prospective student or employee, to disclose the user name and account password for a personal social media account, as defined, or to otherwise provide the institution or employer with access to any content of that account, except as provided.

~~The bill would prohibit a postsecondary educational institution and an employer from threatening a student or employee with or taking~~

specified pecuniary actions for refusing to disclose permissibly requested information related to their personal social media account.

*This bill would prohibit public and private postsecondary educational institutions, and their employees and representatives, from requiring or requesting a student, prospective student, or student group to disclose, access, or divulge personal social media, as defined, information, as specified. The bill would prohibit a public or private postsecondary educational institution from threatening a student, prospective student, or student group with or taking specified pecuniary actions for refusing to comply with a request or demand that violates that prohibition. The bill would require private nonprofit and for-profit postsecondary educational institutions to change the institution's relevant policies, and submit an annual certification to the Bureau for Private Postsecondary Education, to ensure compliance with this bill.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. This act shall be known, and may be cited, as the~~  
2 ~~Social Media Privacy Act.~~

3 *SECTION 1. The Legislature finds and declares that quickly*  
4 *evolving technologies and social media services and Internet Web*  
5 *sites create new challenges when seeking to protect the privacy*  
6 *rights of students at California's postsecondary educational*  
7 *institutions. It is the intent of the Legislature to protect those rights*  
8 *and provide students with an opportunity for redress if their rights*  
9 *are violated. It is also the intent of the Legislature that public*  
10 *postsecondary educational institutions match compliance and*  
11 *reporting requirements for private nonprofit and for-profit*  
12 *educational institutions imposed by this act.*

13 SEC. 2. Chapter 2.5 (commencing with Section 99120) is added  
14 to Part 65 of Division 14 of Title 3 of the Education Code, to read:

15  
16 CHAPTER 2.5. SOCIAL MEDIA PRIVACY  
17

18 99120. As used in this chapter, "social media" means an  
19 ~~electronic medium where users may create, share, and view~~  
20 ~~user-generated content, including uploading or downloading service~~  
21 *or account, or electronic content, including, but not limited to,*

1 videos or still photographs, blogs, video blogs, podcasts, instant  
2 *and text* messages, email, online services or accounts, or Internet  
3 Web site profiles or locations.

4 ~~99121. (a) Except as provided for in subdivision (b), a public~~  
5 ~~or private postsecondary educational institution shall not require,~~  
6 ~~or formally request in writing, a student or prospective student to~~  
7 ~~disclose the user name and account password for a personal social~~  
8 ~~media account or to otherwise provide the institution with access~~  
9 ~~to any content of that account.~~

10 ~~(b) (1) A public or private postsecondary educational institution~~  
11 ~~may request, but not require, a student to provide the institution~~  
12 ~~with access to a personal social media account to aid in a formal~~  
13 ~~investigation conducted by the institution regarding specific~~  
14 ~~allegations of harassment, discrimination, intimidation, or potential~~  
15 ~~violence.~~

16 ~~(2)~~

17 *99121. (a) Public and private postsecondary educational*  
18 *institutions, and their employees and representatives, shall not*  
19 *require or request a student, prospective student, or student group*  
20 *to do any of the following:*

21 *(1) Disclose a user name or password for accessing personal*  
22 *social media.*

23 *(2) Access personal social media in the presence of the*  
24 *institution's employee or representative.*

25 *(3) Divulge any personal social media information.*

26 *(b) A public or private postsecondary educational institution*  
27 *shall not suspend, expel, discipline, threaten to take any of those*  
28 *actions, or otherwise penalize a student, prospective student, or*  
29 *student group in any way for refusing to disclose the requested*  
30 *information related to their personal social media account comply*  
31 *with a request or demand that violates this section.*

32 *(c) This section shall not do either of the following:*

33 *(1) Affect a public or private postsecondary educational*  
34 *institution's existing rights and obligations to protect against and*  
35 *investigate alleged student misconduct or violations of applicable*  
36 *laws and regulations.*

37 *(2) Prohibit a public or private postsecondary educational*  
38 *institution from taking any adverse action against a student,*  
39 *prospective student, or student group for any lawful reason.*

1 99122. *Private nonprofit and for-profit postsecondary*  
2 *educational institutions shall do both of the following:*

3 (a) *Change the institution's relevant policies to ensure*  
4 *compliance with Section 99121.*

5 (b) *Submit certification once per year to the Bureau for Private*  
6 *Postsecondary Education that the institution is in compliance with*  
7 *Section 99121.*

8 ~~SEC. 3. Chapter 2.5 (commencing with Section 980) is added~~  
9 ~~to Part 3 of Division 2 of the Labor Code, to read:~~

10  
11 ~~CHAPTER 2.5. SOCIAL MEDIA PRIVACY~~  
12

13 980. ~~As used in this chapter, "social media" means an electronic~~  
14 ~~medium where users may create, share, and view user-generated~~  
15 ~~content, including uploading or downloading videos or still~~  
16 ~~photographs, blogs, video blogs, podcasts, instant messages, e-mail,~~  
17 ~~online services or accounts, or Internet Web site profiles or~~  
18 ~~locations.~~

19 981. (a) ~~Except as provided for in subdivision (b), an employer,~~  
20 ~~whether public or private, shall not require, or formally request in~~  
21 ~~writing, an employee or prospective employee to disclose the user~~  
22 ~~name and account password for a personal social media account~~  
23 ~~or to otherwise provide the employer with access to any content~~  
24 ~~of that account.~~

25 (b) (1) ~~An employer, whether public or private, may request,~~  
26 ~~but not require, an employee to provide the employer with access~~  
27 ~~to a personal social media account to aid in a formal investigation~~  
28 ~~conducted by the institution regarding specific allegations of~~  
29 ~~harassment, discrimination, intimidation, or potential violence.~~

30 (2) ~~An employer, whether public or private, shall not discharge,~~  
31 ~~discipline, threaten to discharge or discipline, or otherwise penalize~~  
32 ~~an employee in any way for refusing to disclose the requested~~  
33 ~~information related to their personal social media account.~~